

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

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2008 SEP 30 P 3:21

Jovan C. Simon,

Plaintiff,

v.

Lieutenant Meyers,
Sergeant Jay Hechanova,
Major Joey Johnson,
Director Tom Fox,

Defendants.

Civil Action No.: 0:08-751-SB-BM

ORDER

2008 SEP 30 P 3:21
USDC, CLERK, CHARLESTON, SC

#1
This matter is before the Court upon the Plaintiff's pro se complaint, which alleges violations of his constitutional rights pursuant to 42 U.S.C. § 1983. By local rule, the matter was referred to a United States Magistrate Judge for preliminary determinations. On September 4, 2008, United States Magistrate Judge Bristow Marchant issued a Report and Recommendation ("R&R") analyzing the Plaintiff's complaint and recommending that the Court dismiss the Plaintiff's complaint with prejudice for lack of prosecution, pursuant to Rule 41(b) of the Federal Rules of Civil Procedure.

As set forth in the R&R, the Defendants filed a motion for summary judgment on May 19, 2008. Pursuant to Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), the Magistrate Judge advised the Plaintiff of the summary judgment procedure and the possible consequences of failing to respond adequately to the Defendants' motion. When the Plaintiff failed to respond, the Magistrate Judge entered a second order on August 13, 2008, giving the Plaintiff an additional ten days within which to file a response to the Defendants' motion for summary judgment. The Magistrate Judge's second order again

advised the Plaintiff that if he failed to respond, then his complaint could be dismissed for failure to prosecute. Plaintiff again failed to respond,¹ and therefore, on September 4, 2008, the Magistrate Judge issued an R&R recommending that the Court dismiss the Plaintiff's complaint for failure to prosecute. Attached to the R&R was a notice advising the Plaintiff of the right to file specific, written objections to the R&R within 10 days of the date of service of the R&R. To date, no objections have been filed.

Absent timely objection from a dissatisfied party, a district court is not required to review, under a de novo or any other standard, a Magistrate Judge's factual or legal conclusions. Thomas v. Arn, 474 U.S. 140, 150 (1985); Wells v. Shriner's Hosp., 109 F.3d 198, 201 (4th Cir. 1997). Here, because the Plaintiff did not file any specific, written objections, there are no portions of the R&R to which the Court must conduct a de novo review. Accordingly, the Court hereby adopts the Magistrate Judge's R&R as the Order of this Court, and it is

#2
ORDERED that this action is dismissed with prejudice for lack of prosecution, pursuant to Rule 41(b) of the Federal Rules of Civil Procedure.

IT IS SO ORDERED.


The Honorable Sol Bhatt, Jr.
Senior United States District Judge

September **30**, 2008
Charleston, South Carolina

¹ It appears that the Plaintiff called the Clerk of Court's office on August 21, 2008, and was advised that he needed to put something in writing and file it with the Court, but nothing has been filed.